IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 12978 of 1995

Between:

Manga Samudram Gram Panchayat Rep. by its Person-in-Charge,
Chittoor Mandal, Chittoor District.

..... PETITIONER

AND

1. The Govt of Andhra Pradesh rep. by its Secretary, Municipal

Administration & Urban Development Department
Secretariat Building,. Hyderabad.

2 The Govt. of A.P. rep. by its Secretary, Panchayat Raj, Rural

Development & Relief Dept., Secretariat Buildings,
Hyderabad.

3 The District Collector, Chittoor, Chittoor District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or directions, declaring the action of the respondents in proposing the merge the petitioner Gram Panchayat into Chittoor Municipality by proceedings Roc.No. 3672/95-B4-(Pts) dt.25-5-1995 is without jurisdiction contrary to Sec.3 of the A.P. Panchayat Raj Act 1994, arbitrary, illegal and consequently direct the respondents not to include the petitioner gram panchayat into Chittoor Municipality and directing the respondents to hold elections to the petitioner Gram Panchayat by declaring that the Rule 17, of A.P. Panchayat Raj (Declaration of Villages) Rules, 1994 in so far as it relates to denotifying the petitioner Gram Panchayat for the purpose of merging into Chittoor Municipality is contrary to S.3 of A.P. Panchayat Raj Act, 1994 and excessive of the rule making power of the Government and set aside the same declaring as un-constitutional.

Counsel for the Petitioner:MR.S.RAMA MOORTHY REDDY

Counsel for the Respondent No.: GP FOR MUNCIPAL ADMN. & URBAN DEV.

The Court made the following :

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 12978 OF 1995

ORDER:

The present writ petition is filed questioning the action of the respondents in proposing to merge the petitioner Gram Panchayat into Chittoor municipality by proceedings No.3672/95-B4-(Pts) dated
25-5-1995.

The petitioner claims to be Sarpanch of the Manga Samudram Gram Panchayat. It is stated in the affidavit filed in support of the writ petition that developmental works were being carried out from out of the income generated through taxes and under various governmental schemes. While so, the third respondent has issued a show cause notice dated 24-4-1995 under section 3 (2) of the A.P.Panchayat Raj Act, proposing to bifurcate the petitioner Gram Panchayat and on 12-5-1995 a final notification was issued bifurcating the petitioner gram panchayat. The petitioner contends that the municipality is not in a position to provide amenities and facilities and on the contrary the villagers would be put to more financial burden due to increase in property and other taxes, as such the inclusion of the gram panchyat into municipality was opposed. Thereafter on 25-5-1995 a show cause notice was issued calling for objections on or before 31-5-1995 for inclusion of the Doddipalle, Murakambattu and Mangasamudram gram panchayats/revenue villages in the municipal limits of Chittoor municipality. It is also contended that sufficient time was not granted to represent the grievance and the notice was served on the petitioner on 25-5-1995 only and the last date for filing objections was fixed as 30-5-1995.

While admitting the writ petition, by order dated 27-6-1995, interim stay of further proceedings pursuant to proceedings dated 25-5-1995 was granted.

A counter affidavit was filed on behalf of respondents 1 and 2 denying the allegations made in the writ petition and stating that no final notification was issued

and the objections if any raised by the petitioner Gram Panchayat will be considered before issuing the final notification.

The learned counsel for petitioner mainly contended that there is no necessity for inclusion of the petitioner Gram Panchayat in the Chittoor municipality and that reasonable opportunity was not given to the petitioner to put forth its objections since the impugned notice was served only on 25-5-1995 prescribing the last date for filing objections as
31-5-1995.

Whether inclusion of the petitioner gram panchayat in the Chittoor municipality would be beneficial or not, cannot be decided by this Court. However, it is clear that the petitioner was not given reasonable opportunity to file its objections against inclusion of the gram panchayat in the Municipality. Rule 12 (2) of the Andhra Pradesh Gram Panchayats (Declaration of Villages) Rules, 1994 provides for granting of 10 days time from the date of receipt of the show cause notice. The Rule reads as under:

> *"12(2)..The Commissioner shall, before issuing a notification under clause (f) of sub section (2) of Section 3 of the Act, give to the Gram Panchayat, which will be affected by the issue of such notification, an opportunity of showing cause against the proposal to indicate its decision within a period of ten days from the date of receipt of the show cause notice and consider the objections if any, of such Gram Panchayat:*

It is to be noted that even in the counter affidavit filed by the respondent it is not stated that reasonable opportunity and minimum period of ten days time was granted to the petitioner for filing its objections for inclusion of the Gram Panchayat into Municipality. In the circumstances, the petitioner is granted four weeks time from the date of receipt of copy of this order, to file its objections for inclusion of the Gram Panchayat. On filing such explanation/objections, the respondents shall consider the same and pass appropriate final orders in accordance with law. It is needless to mention that if the petitioner is aggrieved by the final orders so passed, it is at liberty to avail such remedies available under the law.

Subject to above, the writ petition is disposed of. No costs.

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N.V.RAMANA,J

12-8-2004

TVK

To

1. The Secretary,Govt of Andhra Pradesh . Municipal

Administration & Urban Development Department
Secretariat Building,. Hyderabad.

2 The Secretary, Govt. of A.P. Panchayat Raj, Rural

Development & Relief Dept., Secretariat Buildings,
Hyderabad.

3 The District Collector, Chittoor, Chittoor District.

4. 2CCs to G.P. for Municipal Administration and Urban

Development, High Court Buildings, Hyderabad.

5. 2CD copies

THE HON'BLE MR JUSTICE N.V. RAMANA

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DATE: 12-8-2004